

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

BIRMINGHAM-JEFFERSON COUNTY)
TRANSIT AUTHORITY AND)
AMALGAMATED TRANSIT UNION LOCAL)
725 EMPLOYEES' CONTRIBUTORY)
RETIREMENT PLAN, et al.,)
)
Plaintiffs,) Case No. 3:09-0304
) Judge Campbell/Bryant
v.)
)
DAVID J. BOATRIGHT,)
)
Defendant.)

O R D E R

Plaintiffs have filed their motion for sanctions (Docket Entry No. 124) by which they seek an order dismissing defendant's counterclaim as a sanction for his breach of his alleged agreement to appear on March 16, 2010, in order to complete his deposition, commenced on March 1, 2010. As grounds for this motion, plaintiffs argue that they were unable to complete defendant's deposition within the allotted time on March 1, 2010, primarily because of defendant's predilection for long-winded, rambling answers.

Defendant has filed a response (Docket Entry No. 134) in which he makes nine numbered arguments, and also states that he has agreed to a resumption of his deposition but has not, at the time of filing his response, received a suggested date from counsel for plaintiffs.

Defendant has also filed his motion for a protective order (Docket Entry No. 128), in which he seeks an order "to limit

Plaintiffs' deposition as completed for maximum duration (to prohibit Plaintiffs' counsel from the use of Rule 410 exclusionary evidence; and for Plaintiffs' counsels to seek cumulative, duplicative, and irrelevant inquiry of no probative value."

Upon consideration of all circumstances in this case, including the fact that defendant Boatright is not represented by counsel, the undersigned Magistrate Judge **DENIES** plaintiffs' motion for sanctions, but **ORDERS** that defendant Boatright appear for the completion of his deposition at a date and time agreed upon by the parties or, failing an agreement, as noticed by counsel for plaintiffs on or before **April 30, 2010**. The additional time of this reconvened deposition shall be limited to two and one-half hours of additional testimony.

Defendant Boatright's motion for protective order (Docket Entry No. 128) is **DENIED**. The admissibility in evidence of any testimony adduced at defendant's deposition is reserved to the trial and will be determined by the trial judge.

It is so **ORDERED**.

s/ John S. Bryant
JOHN S. BRYANT
United States Magistrate Judge